

**NOT FOR PUBLICATION**  
**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**LOS ANGELES DIVISION**

In re:

EUGEN VALENTIN DIETL,

Debtor.

Case No. 2:17-bk-15007-RK

Chapter 11

**ORDER DENYING CREDITOR'S REQUEST  
FOR HEARING AS EMERGENCY OR ON  
SHORTENED NOTICE ON ITS MOTION TO  
CONVERT CASE TO CHAPTER 7 OR  
APPOINT A CHAPTER 11 TRUSTEE**

Pending before this court is the request of Creditor Law Office of Marilyn M. Smith for an emergency hearing, or a hearing on shortened notice on its Motion Under 11 U.S.C. § 1112(b)(1) to Convert to a Chapter 7 or Appoint a Chapter 11 Trustee ("Motion"), filed on October 10, 2017 (Docket No. 65). RoseAnn Frazee, of the Frazee Law Group, represents Creditor. The Motion contained a request by the Creditor for an emergency hearing on the Motion, or in the alternative, a hearing on shortened notice.

The court has considered the Creditor's request for an emergency hearing or a hearing on shortened notice on the Motion and denies the request for the reasons

1 stated as follows:

- 2 1. Based on the circumstances described in the Motion, an emergency hearing  
3 is not warranted under Local Bankruptcy Rule 9075-1(a). The Motion is  
4 based solely on speculation of Creditor's counsel that Debtor would seek  
5 dismissal of the case without providing for payment of creditors based on  
6 Debtor's counsel's pending motion to withdraw: "On or about September 26,  
7 2017, I received the Motion by Simon Resnik Hayes LLP to Withdraw as  
8 General Bankruptcy Counsel to the Debtor. The Motion states that Debtor  
9 has not taken steps for replacement counsel. Obviously then, Debtor could  
10 be planning to let this case be dismissed and take the money in the DIP  
11 account (if he does not already done so)." Counsel Declaration attached to  
12 Motion at 8, ¶ 5. There is no objective evidence to support counsel's  
13 assertion that Debtor has dissipated, or will dissipate, funds in the debtor-in-  
14 possession bank account, which is property of the bankruptcy estate subject  
15 to the court's supervision, in violation of the Bankruptcy Code. Any dismissal  
16 of the case would require an order of this court, which would require review  
17 and an opportunity for all parties entitled to notice, including Creditor, for  
18 notice and hearing pursuant to Section 1112 of the Bankruptcy Code, 11  
19 U.S.C.
- 20 2. Creditor has not served a written application for an order for hearing on  
21 shortened notice under Local Bankruptcy Rule 9075-1(b)(4) on all parties  
22 entitled to notice of the application and the Motion, including all creditors,  
23 pursuant to Federal Rules of Bankruptcy Procedure 1017(f)(1), 2002(a)(4),  
24 9013 and 9014.

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2 3. The Motion may be noticed for hearing under the Local Bankruptcy Rule  
3 9013-1 on regular 21-days notice to all interested parties, including all parties  
4 entitled to notice, including all creditors, pursuant to Federal Rule of  
5 Bankruptcy Procedure 2002(a)(4).

6 IT IS SO ORDERED.

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25 Date: October 11, 2017

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28 Robert Kwan  
United States Bankruptcy Judge